

(2) State, local, and tribal officials in jurisdictions that may be affected by a rail carrier's routing decisions and who directly contact the railroad to discuss routing decisions.

(h) *Storage, delays in transit, and notification.* With respect to the materials specified in paragraph (a) of this section, each rail carrier must ensure the safety and security plan it develops and implements under this subpart includes all of the following:

(1) A procedure under which the rail carrier must consult with offerors and consignees in order to develop measures for minimizing, to the extent practicable, the duration of any storage of the material incidental to movement (see § 171.8 of this subchapter).

(2) Measures to prevent unauthorized access to the materials during storage or delays in transit.

(3) Measures to mitigate risk to population centers associated with in-transit storage.

(4) Measures to be taken in the event of an escalating threat level for materials stored in transit.

(5) Procedures for notifying the consignee in the event of a significant delay during transportation; such notification must be completed within 48 hours after the carrier has identified the delay and must include a revised delivery schedule. A significant delay is one that compromises the safety or security of the hazardous material or delays the shipment beyond its normal expected or planned shipping time. Notification should be made by a method acceptable to both the rail carrier and consignee.

(i) *Recordkeeping.* (1) Each rail carrier must maintain a copy of the information specified in paragraphs (b), (c), (d), (e), and (f) of this section (or an electronic image thereof) that is accessible at, or through, its principal place of business and must make the record available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or the Department of Homeland Security. Records must be retained for a minimum of two years.

(2) Each rail carrier must restrict the distribution, disclosure, and availability of information collected or developed in accordance with paragraphs

(c), (d), (e), and (f) of this section to covered persons with a need-to-know, as described in parts 15 and 1520 of this title.

(j) *Compliance and enforcement.* If the carrier's route selection documentation and underlying analyses are found to be deficient, the carrier may be required to revise the analyses or make changes in route selection. If DOT finds that a chosen route is not the safest and most secure practicable route available, the FRA Associate Administrator for Safety, in consultation with TSA, may require the use of an alternative route. Prior to making such a determination, FRA and TSA will consult with the Surface Transportation Board (STB) regarding whether the contemplated alternative route(s) would be economically practicable.

[73 FR 20771, April 16, 2008, as amended at 73 FR 72193, Dec. 26, 2008]

§ 172.822 Limitation on actions by states, local governments, and Indian tribes.

A law, order, or other directive of a state, political subdivision of a state, or an Indian tribe that designates, limits, or prohibits the use of a rail line (other than a rail line owned by a state, political subdivision of a state, or an Indian tribe) for the transportation of hazardous materials, including, but not limited to, the materials specified in § 172.820(a), is preempted. 49 U.S.C. 5125, 20106.

[73 FR 20772, April 16, 2008]

APPENDIX A TO PART 172—OFFICE OF HAZARDOUS MATERIALS TRANSPORTATION COLOR TOLERANCE CHARTS AND TABLES

The following are Munsell notations and Commission Internationale de L'Eclairage (CIE) coordinates which describe the Office of Hazardous Materials Transportation Label and Placard Color Tolerance Charts in tables 1 and 2, and the CIE coordinates for the color tolerances specified in table 3. Central colors and tolerances described in table 2 approximate those described in table 1 while allowing for differences in production methods and materials used to manufacture labels and placards surfaced with printing inks. Primarily, the color charts based on table 1 are for label or placard colors applied as opaque coatings such as paint, enamel or plastic, whereas color charts based on table